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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/228,325 01/11/99 STEVENS

L 1002.2.72

021552 QM22/0411
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EXAMINER

CHAMBERS, M

ART UNIT	PAPER NUMBER
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3711
DATE MAILED:

04/11/01

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/228,325

Applicant(s)

Stevens

Examiner

M. Chambers

Group Art Unit

3711



☒ Responsive to communication(s) filed on Mar 12, 2001

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1, 2, and 4-18 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1, 2, and 4-18 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

This Office Action is a response to the Application filed on:

Number	Name	Date	Claims	Independent Claims
09228325	Stevens	1/11/99	18	2

DETAILED ACTION

Drawings

1. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Specification

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as obvious over Hying et al in view of Dow

Corning Datasheet. Hying et al discloses a frame (1), an acrylic backboard (3) and the use of an adhesive (fig 2, 8:45-47) as old art. However Hying does not clearly disclose the type of adhesive used. Dow Corning Datasheet discloses an elastomeric adhesive (pg1-type of adhesive-1449 document). It would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the elastomeric adhesive of the Dow Corning Datasheet to attach the backboard and frame in order to prevent injury to the players if the attachment means failed.

2. Claims 2-18 are rejected under 35 U.S.C. 103(a) as being obvious over Hying et al in view of Dow Corning Datasheet as applied to claim 1 above, and further in view of Nunes and 3M-data. Hying et al discloses the elements in claim 1. However Hying et al fails to disclose a plurality of equivalent attachment means.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have

employed various equivalent adhesive means with the apparatus of Hying et al in order to insure the apparatus remain attached and to reduce production costs. One skilled in the art would have knowledge of various attachment means and would have selected an appropriate adhesive.

As to claims 3,4,5,6,15: No criticality is given to the type of adhesive used. It would have been obvious to one skilled in the art at the time of the invention to be aware of the adhesives available in the art and would have chosen an appropriate adhesive and followed appropriate set time instructions provided by the adhesive manufacturer. The dependent claims merely recite the application instructions of the adhesive. The recitation of following the manufacturer's recommended instructions does not constitute patentable features of an invention.

As to claims 7-10, 16-18 : No criticality is given to the step of providing bond gap spacers in an adhesive. Including glass micro spheres is well known in the art (3M data sheet- pg 2). It would have been obvious to one of ordinary skill in the art to have included micro spheres in the adhesive in order to reduce the amount of adhesive used and insure the adhesive bonded uniformly. The use of this ingredient is common knowledge, the dependent claim language merely recite the use of the ingredient with the adhesive.

As to claims 11, 12 :Hying et al discloses a metal frame (1). It would have been obvious to one of ordinary skill to have employed a painted metal in order to avoid the metal rusting .

As to claim 13: Nunes discloses the placing of indicia on an acrylic surface (fig 3). It would have been obvious to one of ordinary skill in the art at the time of the invention to have included indicia on the backboard to more easily permit the placing of the adhesive and frame during assembly. It

is also well known to place position marks on articles to insure they are properly placed when bonded together.

As to claim 14: See base claim rejection.

As to claim 15 : No criticality is given to the step of providing bond gap spacers in an adhesive.

Including glass micro spheres is well known in the art (3M data sheet- pg 2). It would have been obvious to one of ordinary skill in the art to have included micro spheres in the adhesive in order to reduce the amount of adhesive used and insure the adhesive bonded uniformly.

Concerning the following items:

- a) The particular type of adhesive used.
- b) The amount of and method in which the adhesive is applied.
- c) The type or structure of the bond gap spacers used in applying the adhesive.
- d) The preparing of surfaces prior to applying adhesive.
- e) The printing of position marks on the articles for applying adhesive. .

No criticality or relevancy can be shown for the above items. If the applicant believes any of these items have a criticality or relevancy, then they should discuss the features which are novel or an improvement over prior art which they believe are patentable and non-obvious to one of ordinary skill in the art, when they response to this office action. The overall functionality of the apparatus described in the specification is maintained regardless of any change in these items. Furthermore one of ordinary skill in the art would have appreciated the various types of material/indicia and dimensions which could be used and would have chosen those items or the combinations of those items which would best provide/enhance the apparatus.

Conclusion

Response to Arguments

3. Applicant's arguments filed 3/12/01 have been fully considered but are not persuasive.

Applicant further submits that it would NOT have been obvious to substitute double-sided tape with catalyzed elastomeric adhesive in the claimed basketball backboard assembly. If it were so obvious to substitute double-sided tape with catalyzed elastomeric adhesive, others would have done it long ago to achieve the beneficial results reported in the specification. The specification, pages 9 and 10 compares the adhesion and flexibility of conventional double-sided tape with catalyzed elastomeric adhesive within the scope of the present invention. The baseline adhesion and flexibility of double-sided tape was 20° deflection at 125 inch-pounds torque. Page 10, lines 14-15. The adhesion and flexibility of the catalyzed elastomeric adhesive was 25° to 450 deflection at 160 inch-pounds torque. Page. 10, lines 19-21. The improved adhesion and flexibility reported in the specification results in improved playability, longevity, and failure rate of basketball backboard systems in accordance with the present invention.

The use of adhesives and double sided tape is disclosed by Hyning et al as old art. It would have been obvious to one of ordinary skill in the art at the time of the invention to have selected an appropriate adhesive to bond the metal backboard and acrylic backboard in order to provide an apparatus which functions as designed. The instant invention follows the manufacturer's recommended use instructions for the adhesive.

2 The 3M Data Sheet citation discloses glass bubbles and spheres for use as fillers in applications such as spackling compound, reinforced thermoplastics, and autobody filler. It does not teach or suggest the use of glass beads as bond gap spacers.

As noted in the Application Market Matrix which identifies some of the major applications for 3M microspheres, it is well known to use the product with adhesives (see page 1 under "Adhesives and Sealants"). On page 2, the details that the use of these bond gap spacers are used in Adhesives (pg 2-line 4)

The examiner appreciates the discussion offered by the applicant's representative. And the examiner has tried to identify a patentable feature of the application. Unfortunately it appears to the examiner that the application takes old art, using adhesive to bond a backboard and metal supports by following the instructions provided by the adhesive manufacturer.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and relied upon.

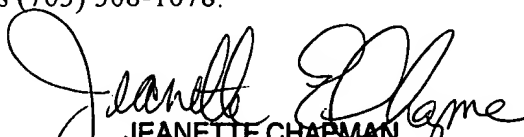
Patent Number	Date	Patent Name	Notes
5677896	10/14/97	Nunes	prior office action
5839982	11/24/98	Hying et al	prior office action
NPL	12/98	3M Data Sheet	prior office action
NPL	3/23/01	GE data sheet	www.gesilicones.com/usadatasheets/1717.html
NPL	3/28/01	3M Microspheres Application Guide	www.3M.com/market/industrial/additives/appguide.html

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Michael Chambers** whose telephone number is (703) 306-5516. The examiner can normally be reached on Mon.-Fri. from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeanette E. Chapman, can be reached on (703) 308-1310. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1078.

Case #09/228,325


JEANETTE CHAPMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700